

UNITED STATES DISTRICT COURT W.D. OF WASHINGTON AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

TORY L. SMITH,

Defendants.

Case No. CR07-5688

**ORDER RE: VIOLATION OF
CONDITIONS OF SUPERVISION
AND ORDERING DETENTION**

THIS MATTER comes on for hearing due to the self-surrender of the Defendant based on the issuance of a warrant for his arrest for his failure to appear at trial scheduled for February 11, 2008.

The plaintiff appeared through Barbara Sievers.

The Defendant was present and represented by counsel, Miriam Schwartz.

Sarah Cavendish was present for Pre-trial Services.

BACKGROUND

Mr. Smith had been released on bond on November 28, 2007. Included in his conditions of the bond was the requirement that he appear for the trial scheduled of February 11, 2008 and that he comply with all court orders and terms of supervision. Mr. Smith did not appear for trial as he was in custody with the State of Washington Department of Corrections for violations of his terms of supervision.

PRIOR REVOCATION HEARING

The undersigned conducted a Bond Revocation Hearing on February 1, 2008 based on allegations from the Pre-trial Services Officer that the Defendant violated his bond conditions by using cocaine on or about January 14, 2008 and by failing to submit to a drug and alcohol test, as directed, on January 22, 2008. The undersigned found that the Defendant did violate his bond conditions but continued his release on the previously issued bond.

PRESENT HEARING

At the hearing on April 9, 2008 the Plaintiff requested detention of the defendant for his failure to comply with the terms of his supervision, in violation of the bond conditions, which required his appearance at trial and compliance with the terms of his State supervision. Mr. Smith acknowledged he missed his trial date and that he was incarcerated twice, at the direction of the Department of Corrections, first on February 6, 2008 and then again on March 18, 2008. His explanation for his failing to appear at trial was due to his incarceration. He also gave an explanation to the Court as to why he was incarcerated on two separate occasions.

FINDINGS

NOW THEREFORE, the court finds the defendant has violated the conditions of his Pretrial Supervision while on release under bond. The Court further finds that this is the second time Mr. Smith has violated his bond conditions. The Court finds that there are no conditions or combination of conditions which will assure that the defendant will appear and will not pose a danger to other persons, if released again; and further finds that defendant is unlikely to abide by any condition or combination of conditions set by the court

IT IS ORDERED that the defendant's bond is REVOKED and that the Defendant shall be detained pending trial. The defendant shall be afforded reasonable opportunity for private consultation with counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which defendant is confined shall deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

The clerks shall direct copies of this order to counsel for the United States, to counsel for the defendant, the United States Marshal and to the United States Probation Office and/or Pretrial Services Office.

DATED this 9th day of April, 2008.


Karen L. Strombom

United States Magistrate Judge

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